

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Dart Trucking	)	
Company, Inc. Notice of Apparent	)	Case No. 10-608-TR-CVF
Violation and Intent to Assess	)	(OH3211301579C)
Forfeiture.	)	

FINDING AND ORDER

The Commission finds:

- (1) On March 5, 2010, a vehicle operated by Dart Trucking Company, Inc. (respondent) and driven by Gregory B. Kraft was inspected within the state of Ohio. At the time of the inspection, the respondent was carrying Hazardous Materials (Hazmat), Class 5.2 and 6.1. As a result of the inspection, the respondent was served a Driver/Vehicle Examination Report that included two citations for not having placards when required, in violation of 49 Code of Federal Regulations C.F.R. 177.823(a) and one citation for having improper markings on a placard, in violation of 49 C.F.R. 177.823(a).
- (2) On March 25, 2010, the Commission's staff (Staff) sent the respondent a combined notice of apparent violation and intent to assess forfeiture in accordance with Rules 4901:2-7-05 and 4901:2-7-07, Ohio Administrative Code (O.A.C.), for carrier violations. This notice contained the same Hazmat citations that were listed in the Driver/Vehicle Examination Report that was served on the driver at the time of the inspection. The carrier was assessed a \$6,120.00 forfeiture by Staff for the violations listed in the notice.
- (3) On April 16, 2010, a settlement conference was held between Staff and the respondent, but the parties were unable to settle the case at that time.
- (4) On April 26, 2010, Staff sent the respondent a notice of preliminary determination (NPD), pursuant to Rule 4901:2-7-12, O.A.C., which contained the same Hazmat citations that were listed in the Driver/Vehicle Examination Report. In response to the NPD, the respondent timely filed, pursuant to Rule 4901:2-7-13, O.A.C., a formal request for an administrative hearing in this case.

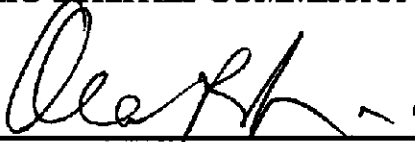
- (5) On August 30, 2010, the parties filed a settlement agreement which, in the parties' opinion, resolves all of the issues raised in the NPD.
- (6) In the settlement agreement, the parties agree and recommend that the Commission find:
  - (a) Staff and the respondent agree to a civil forfeiture of \$6,120.00 for the Hazmat citations contained in the Driver/Vehicle Examination Report.
  - (b) Staff and the respondent agree that the Hazmat citations served on the respondent in the Driver/Vehicle Examination Report and NPD may be included in the respondent's Safety-Net record and history of violations for purposes of determining future penalty actions.
  - (c) Within 30 days of the effective date of the settlement agreement, the respondent shall begin making payments of \$510.00 each month for 12 consecutive months to make the balance or total amount of \$6,120.00 paid-in-full. Each of the 12 payments shall be made using a certified check or money order payable to: "Treasurer State of Ohio" and mailed to PUCO Fiscal, 180 East Broad Street, Fourth Floor, Columbus, Ohio 43215-3793. Case No. 10-608-TR-CVF (OH3211301579C) should be referenced on all payments.
  - (d) The settlement agreement shall not become effective until adopted by the Commission. The date of the entry or order of the Commission adopting the settlement agreement shall be considered the effective date of the settlement agreement.
  - (e) The settlement agreement is made in settlement of all factual or legal issues in this case. It is not intended to have any affect whatsoever in any other case or proceeding.
- (7) The Commission finds that the settlement agreement submitted in this case is reasonable. Therefore, the settlement agreement should be approved and adopted in its entirety.

It is, therefore,

ORDERED, That the settlement agreement submitted in this case be approved and adopted in its entirety. It is, further,

ORDERED, That a copy of this finding and order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser

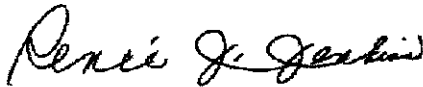


Cheryl L. Roberto

DEF/dah

Entered in the Journal

SEP 22 2010



Renee J. Jenkins  
Secretary